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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/966,604 | 09/27/2001 | Victor M. Benveniste | ETE-025 | 4759 |
| 959 | 7590 | 10/21/2003 | EXAMINER | |
| LAHIVE & COCKFIELD 28 STATE STREET BOSTON, MA 02109 | | | HE, AMY | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2858 | |

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 09/966,604 | Applicant(s) BENVENISTE, VICTOR M. |
| | Examiner Amy He | Art Unit 2858 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
 Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 July 2003.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 12-16 is/are allowed.
 6) Claim(s) 1,2,9 and 17 is/are rejected.
 7) Claim(s) 3-8,10,11 and 18-20 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 27 September 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to, see Notice of Draftsperson's Patent Drawing Review (PTO 948) from the previous office action (paper # 6) for details. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 9 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Morrison, Jr. (U. S. Patent No. 4, 714, 891).

Referring to claim 1-2, Morrison discloses a system for determining the presence or absence of an ion in a plasma (in Figures 7 and 18), comprising:

an ion source having a plasma chamber (14 in Figure 7 or 16 in Figure 18) sized and dimensioned for generating a plasma (34a in Figure 7) having an ion present therein, and

a probe assembly (combination of 36 and 42 in Figure 7) coupled to the ion source for detecting said ions of said plasma,

wherein said probe assembly comprises a probe device (36 in Figure 18) extending within the plasma chamber for extracting said ion from said plasma.

Referring to claim 9, Morrison discloses the system of claim 1, further comprising a vacuum source (14 in Figure 6) coupled to the probe device (36 and 42 in Figure 7) for creating a selected pressure condition therein for facilitating extraction of said ion from said plasma chamber.

Referring to claim 17, it is the method claim corresponding to the rejected apparatus claims 1-2. It is rejected for the same reasons as stated above for the rejection of the apparatus claims.

Allowable Subject Matter

3. Claims 12-16 are allowed. The following is a statement of reasons for the indication of allowable subject matter:

Claims 12-16 are allowable because none of the prior art teaches a probe assembly for detecting an ion in a plasma within a plasma chamber comprising a focusing element and a filter coupled to the probe, in the combination as claimed.

4. Claims 3-8, 10-11 and 18-20 are objected to as being dependent upon a rejected base claim (claims 1 and 17), but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy He whose telephone number is (703) 305-3360. The examiner can normally be reached on 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le can be reached on 703-308-0750. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

AH
October 14, 2003

AH
He
N. Le
Supervisory Patent Examiner
Technology Center 2800